



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:03.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P(MD)No.177 of 2020

and

Crl.M.P(MD)No.51 of 2020

WEB COPY

1.M.A.Alavudeen

2.A.Palkeesh @ Bhuvaneswari

... Petitioners/Accused Nos.1

and 2

Vs.

1.The State rep. by,

The Sub-Inspector of Police,

Palakkarai Police Station,

Tiruchirappalli - 1.

(In Crime No.319 of 2013)

... 1st Respondent/Complainant

2.N.Syed Shahul Hameed

... 2nd respondent/defacto
complainant

PRAYER: Petition filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in C.C.No.21 of 2015 on the file of the Judicial Magistrate No.V, Trichy and quash the same as against the petitioners.

For Petitioners

: Mr.V.Illanchezian

For R-1

: Mr.A.Thirvadi Kumar,
Additional Public Prosecutor

For R-2

: Mr.R.Sundar

ORDER

This Criminal Original Petition has been filed to quash the final report filed against these petitioners in Crime No.391 of 2013 registered on the file of the first respondent police for the offence under Sections 120(b), 418, 420, 463, 468, 506(i) of I.P.C, which has been taken on file in C.C.No.21 of 2015 on the file of the learned Judicial Magistrate No.V, Trichy.

2. The crux of the allegation is that the petitioners induced the defacto complainant to entered into a partnership business and to part with huge amount with an intention to cheat him. They have also forged some documents. The matter culminated into final report after examining several witnesses.



3. The contention of the learned counsel for the petitioners is that it is only a civil dispute and arising out of a partnership business and there cannot be any charge against the petitioners. It is also submitted by the learned counsel for the petitioners that for the same breach of contract, the petitioners already convicted in C.C.No.269 of 2013 on the file of the learned Judicial Magistrate No.V, Trichy, vide judgment dated 18.03.2019.

4. It is also stated that one of the accused namely the third accused filed Crl.O.P(MD)No.3533 of 2017 wherein this Court vide order dated 01.11.2019 has quashed the proceedings against the third accused. Therefore, the present accused are also entitled to the same benefit.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. In the order dated 01.11.2019, this Court has recorded the fact that there are materials against A-1 and A-2 the petitioners herein in both the F.I.R and the final report. Hence, after finding them, quashed the proceedings only against the A-3. Therefore, when there is *prima facie* material against the petitioners, this petition to quash the final report will not at all arise. Whether the charge framed in C.C.No.269 of 2013 are arising out of the same complaint and allegations or not, has to be seen by the learned trial Judge. If same set of allegations are pressed into service, the findings given earlier have also to be taken note of by the trial Court while deciding the present case.

With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pm

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

1.The Judicial Magistrate No.V,
Trichy.

2.The Sub-Inspector of Police,
Palakkarai Police Station,
Tiruchirappalli - 1.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SUNDAR, Advocate (SR-9968[F] dated 04/03/2022)

Crl.O.P(MD)No.177 of 2020

03.03.2022

RK(18/03/2022) 3P 5C